

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Elgin, Joliet, and Eastern Railway Company; Wheatland Township Road District; and State of Illinois, Department of Transportation.

T04-0037

Stipulated Agreement regarding improving public safety by upgrading the railroad warning devices at the 119th Street (Ferguson Road) highway-rail grade crossing of the Elgin, Joliet, and Eastern Railway Company's track located near the City of Plainfield in the Wheatland Township Road District, Will County, Illinois, designated as crossing AAR/DOT 260 569J, Milepost 13.59.

ORDER

By the Commission:

On February 18, 2004, March 2, 2004, March 2, 2004, and March 26, 2004, the Staff of the Illinois Commerce Commission (COMMISSION), Elgin, Joliet, and Eastern Railway Company (COMPANY), Wheatland Township Road District (ROAD DISTRICT), and the Illinois Department of Transportation (DEPARTMENT), respectively, executed the Stipulated Agreement No. 1078 according to the provisions of Section 18c-7401 of the Illinois Commercial Transportation Law. The Stipulated Agreement, which is appended hereto, provides for safety improvements at the 119th Street (Ferguson Road) highway-rail grade crossing of the Elgin, Joliet, and Eastern Railway Company's track located near the City of Plainfield in the Wheatland Township Road District, Will County, Illinois, designated as crossing AAR/DOT 260 569J, Milepost 13.59. The Stipulated Agreement contains an estimate of cost to accomplish the improvements and a division of cost among the parties and the Grade Crossing Protection Fund of the Motor Fuel Tax Law.

The Commission, having given due consideration to the Stipulated Agreement and being fully advised in the premises, finds that:

- (1) The Commission has jurisdiction over the parties and the subject matter of this proceeding.
- (2) The parties agree that in the interest of public safety the work as set forth in Section 2 of the Stipulated Agreement, appended hereto, should be performed.

- (3) The cost for the proposed work should be divided among the parties and the Grade Crossing Protection Fund of the Motor Fuel Tax Law, in accordance with the Law.
- (4) It is fair and reasonable that the Secretary of the Illinois Department of Transportation through the Grade Crossing Protection Fund of the Motor Fuel Tax Law, the Elgin, Joliet, and Eastern Railway Company, and Wheatland Township Road District should be directed to pay their respective portions of the cost for the proposed work as set forth in Section 5 of the Stipulated Agreement appended hereto.
- (5) All bills for expenditures authorized to be reimbursed from the Grade Crossing Protection Fund should be submitted to the Department as set forth in Section 6 of the Stipulated Agreement appended hereto; the final bill for expenditures should be clearly marked "Final Bill"; authorization for reimbursement from the Grade Crossing Protection Fund should expire twenty-four (24) months from the date of this Order; the Department should, at the end of the 24th month from the Commission's Order date, de-obligate all residual Grade Crossing Protection Fund assistance accountable for this project.
- (6) The Elgin, Joliet, and Eastern Railway Company should submit progress reports at six (6) month intervals from the date of this Order with the Director of Processing and Information of the Commission's Transportation Bureau, stating the progress they have made toward completion of their work herein required, and stating the status of expenditures of the total project and percentage of completion of the project; if the project is behind schedule the reports must also include a brief explanation of the reason (s) for the delay; the progress reports should also include the Commission Order Number, the Order Date, the project completion date as noted in the Order, crossing information (Inventory Number and Railroad Milepost), type of improvement, and project manager information (the name, title, mailing address, phone number and facsimile number of the employee responsible for management of this project).
- (7) 625 ILCS 5/18c-1701 and 1704 require each "person", as defined by Section 18c-1104, to comply with every regulation or order of the Commission. These sections further provide that any person who fails to comply with a Commission regulation or order shall forfeit to the state not more than \$1,000 for each such failure, with each day's continuance of the violation being considered a separate offense. While the Commission expects all parties to comply with this Order in all matters addressed herein and in a timely manner, the Commission advises that any failure to comply may result in the assessment of such sanctions.

IT IS THEREFORE ORDERED that the terms of Stipulated Agreement No. 1078, appended hereto, executed by the Staff of the Illinois Commerce Commission, Elgin, Joliet, and Eastern Railway Company, Wheatland Township Road District, and the Illinois Department of Transportation on February 18, 2004, March 2, 2004, March 2,

2004, and March 26, 2004, respectively, be and they are hereby required to be met by the aforesaid parties.

IT IS FURTHER ORDERED that the Elgin, Joliet, and Eastern Railway Company be, and it is hereby, required and directed to proceed immediately in performing their work as set forth in Section 2 of the Stipulated Agreement, appended hereto, and shall complete their work within twelve (12) months from the date of this Order.

IT IS FURTHER ORDERED that the cost of making the improvements herein required shall be divided among the parties and the Grade Crossing Protection Fund of the Motor Fuel Tax Law, as set forth in Section 5 of the Stipulated Agreement, appended hereto.

IT IS FURTHER ORDERED that all bills for expenditures authorized to be reimbursed from the Grade Crossing Protection Fund toward the signal interconnection shall be submitted to the Fiscal Control Unit of the Bureau of Local Roads and Streets, Illinois Department of Transportation, 2300 South Dirksen Parkway, Springfield, IL. 62764. The Illinois Department of Transportation shall send a copy of all bills to the Director of Processing and Information, Transportation Bureau of the Commission. The final bill for expenditures from the railroads shall be clearly marked "Final Bill". All bills shall be submitted no later than twenty-four (24) months from the date of this Order. The Illinois Department of Transportation shall de-obligate, at the end of the 24th month from the date of this Order, all residual Grade Crossing Protection Fund assistance accountable for this project.

IT IS FURTHER ORDERED that Wheatland Township Road District and the Elgin, Joliet, and Eastern Railway Company shall each submit progress reports at six (6) month intervals from the date of this Order with the Director of Processing and Information of the Commission's Transportation Bureau, stating the progress they have made toward completion of their work herein required, and stating the status of expenditures of the total project and percentage of completion of the project; if the project is behind schedule the reports must also include a brief explanation of the reason(s) for the delay; the progress reports shall also include the Commission Order Number, the Order Date, the project completion date as noted in the Order, crossing information (Inventory Number and Railroad Milepost), type of improvement, and project manager information (the name, title, mailing address, phone number and facsimile number of the employee responsible for management of this project).

IT IS FURTHER ORDERED that the Elgin, Joliet, and Eastern Railway Company shall file Form 3 applications of 92 Illinois Administrative Code 1535 of this Commission showing details of the automatic warning devices herein required and shall receive approval thereof by X-Resolutions before commencing the work of installation.

IT IS FURTHER ORDERED that the Elgin, Joliet, and Eastern Railway Company shall submit to the Director of Processing and Information, Transportation Bureau of the Commission, within five (5) days of the completion of the work herein required of them, a U.S. DOT Crossing Inventory Form (6180.71), as a notice of said completions.

IT IS FURTHER ORDERED that any person making a Request For Extension Of Time up to 30 days to complete a project ordered by the Commission must file a request with the Director of Processing and Information no later than 14 days in advance of the scheduled deadline. An Administrative Law Judge will consider and decide the request.

IT IS FURTHER ORDERED that any person requesting an extension of time that exceeds 30 days must file a Petition For Supplemental Order with the Director of Processing and Information no later than 21 days in advance of the scheduled deadline. The Commission will decide Petitions For Supplemental Orders.

IT IS FURTHER ORDERED that Requests For Extension Of Time and Petitions For Supplemental Orders must include the reason(s) the additional time is needed to complete the work and the time within which the project will be completed. Prior to submitting a Request For Extension Of Time or a Petition For Supplemental Order, the person must notify the Commission's Rail Safety Program Administrator that it is unable to complete the project within the ordered timeframe.

IT IS FURTHER ORDERED that the Commission or its Administrative Law Judge reserves the right to deny Petitions For Supplemental Orders and Requests For Extension Of Time, if the reason(s) supporting the request is insufficient or where it appears the person has not made a good faith effort to complete the project within the allotted time. Failure of the Commission or Administrative Law Judge to act on a pleading prior to the deadline means the originally ordered completion date remains in effect.

IT IS FURTHER ORDERED that, subject to Section 18c-2201 and 18c-2206 of the Law, this is a final decision of the Commission subject to the Administrative Review Law.

By Order of the Commission this 5th day of May, 2004.

Edward C. Husley ₂

Chairman

JUDGE
SECTION CHIEF <i>MES</i>
<i>[Signature]</i> ORDERS SUPERVISOR